

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE SUBPOENAS SERVED ON

JSC STATE EXPORT-IMPORT BANK OF UKRAINE; BANK
POLSKA KASA OPIEKI SA; DEUTSCHE BUNDESBANK;
RESERVE BANK OF AUSTRALIA; AB SEB BANKAS; SEB
SECURITIES, INC.; BANK OF MONTREAL; BMO
FINANCIAL CORP.; BMO CAPITAL MARKETS CORP.;
THE BANK OF NEW YORK MELLON CORPORATION;
BARCLAYS BANK PLC; BARCLAYS CAPITAL INC.; BNP
PARIBAS FORTIS SA/NV; BNP PARIBAS USA, INC.; BNP
PARIBAS; CITIBANK N.A.; CITIGROUP INC.; CITIGROUP
GLOBAL MARKETS LTD.; COMMERZBANK AG;
COMMERZ MARKETS LLC; CREDIT SUISSE
(SWITZERLAND) LTD.; CREDIT SUISSE AG; CREDIT
SUISSE (USA), INC.; DANSKE BANK A/S; DANSKE
MARKETS INC.; DEUTSCHE BANK TRUST COMPANY
AMERICAS; DEUTSCHE BANK TRUST CORPORATION;
DEUTSCHE BANK AG; DNB BANK ASA; DNB CAPITAL
LLC; DNB MARKETS, INC.; HSBC BANK PLC; HSBC
NORTH AMERICA HOLDINGS INC.; JPMORGAN CHASE
BANK N.A.; JPMORGAN CHASE & CO.; J.P. MORGAN
SECURITIES PLC; J.P. MORGAN SECURITIES LLC; MUFG
BANK, LTD.; MUFG AMERICAS HOLDING
CORPORATION; MUFG SECURITIES AMERICAS INC.;
RAIFFEISEN BANK INTERNATIONAL, AG; RB
INTERNATIONAL MARKETS (USA) LLC; SANTANDER
BANK POLSKA S.A.; STANDARD CHARTERED BANK
PLC; STANDARD CHARTERED BANK (HONG KONG)
LTD.; STANDARD CHARTERED SECURITIES (NORTH
AMERICA) LLC; UBS SWITZERLAND AG; UBS
AMERICAS INC.; UBS AG; UBS AMERICAS HOLDINGS
LLC; UNICREDIT BANK AG; AND UNICREDIT CAPITAL
MARKETS LLC:

UKRAINE,

Petitioner,

-against-

PAO TATNEFT,

Respondent.

Misc. Case No. 1:22-mc-00036

(Arising from Case No. 1:17-
cv-00582-CKK in the United
States District Court for the
District of Columbia,
pending on petition for
rehearing and rehearing *en
banc* in Case No. 20-7091 in
the United States Court of
Appeals for the District of
Columbia Circuit)

**SECOND DECLARATION
OF OKSANA
MARKAROVA
IN SUPPORT OF
UKRAINE'S MOTION TO
QUASH SUBPOENAS**

I, Oksana Markarova, declare as follows:

1. I am Ambassador Extraordinary and Plenipotentiary of Ukraine to the United States of America. I have served in this capacity since my Credentials were formally accepted by President Joseph R. Biden, Jr. on July 7, 2021.
2. Before being appointed as Ambassador of Ukraine to the U.S., I served in Ukraine's Ministry of Finance in 2015-18 as First Deputy Minister and Government Commissioner on Investments, and then from 2018 to 2020 as Minister of Finance of Ukraine. Prior to my career in public service, I spent 17 years working in private equity and financial sector, held leadership roles in ITT Investment Group, Western NIS Enterprise Fund, Chemonics, and the World Bank.
3. This declaration is based on my personal knowledge, experience, and expertise, including as the Ambassador Extraordinary and Plenipotentiary of Ukraine to the United States.
4. Nothing in my declaration should be taken as a waiver of any privilege or right on the part of Ukraine. For the avoidance of doubt, nothing in my declaration should be taken as amounting to acceptance of jurisdiction or a waiver of the sovereign immunity of Ukraine, including the immunity of its officials and its property under the Foreign Sovereign Immunities Act and international law. Nothing in my declaration should be taken as a waiver of diplomatic and consular immunity under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, and international law. All rights, privileges, and immunities are expressly reserved.
5. I understand from the Ministry of Justice of Ukraine that Tatneft has served discovery requests on Ukraine in D.C. District Court case 1:17-cv-00582. Upon considering Tatneft's requests, it is clear to me that they are so broadly worded as to include within their scope important national security information the disclosure of which would significantly undermine the

national defense of Ukraine. For example, a full response would include detailed information about the nature and extent of Ukraine's military, defense, and intelligence resources and expenditures. This would reveal substantial non-public information about Ukraine's military, defense, and intelligence capabilities and vulnerabilities, about bank accounts belonging not only to Ukraine but also to the United States and other allies who have provided funding or sold equipment to Ukraine, and about the identities of Ukraine's military and intelligence personnel, and suppliers of military and intelligence equipment and technology.

6. I also understand from the Ministry of Justice of Ukraine that Tatneft has served about 25 subpoenas on a number of financial institutions in Southern District of New York case 1:21-mc-00376. Most recently, I was informed by the Ministry of Justice of Ukraine that on January 25, 2022, Tatneft served about 52 additional subpoenas, in addition to about 25 initial subpoenas, on financial institutions. Upon considering Tatneft's subpoenas, it is clear to me that they have a similar scope to the requests served on Ukraine in the D.C. District Court, raising the same concerns about the disclosure of sensitive, non-public national security information that would undermine the national defense of Ukraine.

7. Moreover, I have been informed by the Ministry of Justice of Ukraine that the discovery requests served by Tatneft in both proceedings define "Ukraine" to include 19 specifically identified third parties (such as SC Ukroboronprom, which oversees Ukraine's defense industry, and SE Ukrkosmos, which maintains satellite communications in Ukraine that are necessary to gather intelligence and to coordinate movements of military personnel and supplies) and innumerable other third parties (including but not limited to the Ministry of Defense) in a catch-all provision for all "agencies, instrumentalities, ministries, political subdivisions, representatives, State Controlled Entities, alter-egos, and assigns, and all other Persons acting or

purporting to act for or on Ukraine's behalf, whether or not authorized to do so." This brings additional important national security information within the scope of discovery, although disclosure of this information would significantly undermine the national defense of Ukraine. A full response to Tatneft's discovery requests would include documents that identify business counterparts and cash flows on which SC Ukroboronprom and SE Ukrkosmos depend to fulfill their vital roles in maintaining Ukraine's defense industry and Ukraine's satellite communications. It would also include documents that shed light on the assets, financial health, and economic vulnerabilities of SC Ukroboronprom, SE Ukrkosmos, and their business counterparts.

8. Disclosure of this information will be extremely harmful to Ukraine's national security interests and defense, especially given Russia's historic pattern of aggression toward Ukraine and the recent escalation of its threatening behavior. For example, this information can be used to evaluate Ukraine's defense capabilities, to plan offensive measures that account for Ukraine's defense capabilities and exploit its weaknesses, and to interfere with Ukraine's efforts to sustain its national defense efforts, including by identifying, intimidating, and harming companies and individuals, including soldiers, and intelligence agents, with important roles in Ukraine's national defense.

9. I am aware that Russia proactively seeks to obtain sensitive national security information concerning Ukraine and uses that information against Ukraine. Russia has targeted information like that requested by Tatneft in a variety of ways, including by offering positive and negative incentives to encourage private individuals and companies to share information and by hacking private individuals and companies in whom Ukraine has confided. Although this threat

is smaller with respect to information that is provided to Tatneft's outside counsel in the United States, it is known that Russian intelligence efforts have included cyber-attacks on U.S. law firms.¹

10. It is extraordinarily difficult to identify the source of a leak. Moreover, national security demands that sensitive information be shared with private parties only on an as-needed basis. Thus, it is difficult to determine exactly how common it is for Russia to obtain information from a Russian company or a U.S. law firm using positive incentives, negative incentives, or cyber-attacks.

11. Disclosure of the requested information would be extremely harmful for Ukraine's national security interests. This is even more the case at the times when the current geopolitical situation has been aggravating lately and has raised tensions to the level of military hostilities and cyber-attacks.

12. On March 2, 2021, President Biden formally confirmed that Russia's conduct toward Ukraine continues to constitute a national emergency for the United States because it poses an "unusual and extraordinary threat to the national security and foreign policy of the United States," noting that Russia's actions and policies "undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets."²

13. Since that time, the threat posed by Russia has only grown, and Russia has "grown more insistent that Ukraine is fundamentally a part of Russia."³

¹See, e.g., National Security Agency, "NSA, Partners Release Cybersecurity Advisory on Brute Force Global Cyber Campaign" (July 1, 2021) (available at <https://www.nsa.gov/Press-Room/Press-Releases-Statements/Press-Release-View/Article/2677750/nsa-partners-release-cybersecurity-advisory-on-brute-force-global-cyber-campaign/>).

²Joseph R. Biden Jr., "Notice on Continuation of the National Emergency with Respect to Ukraine," White House Briefing Room (March 3, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/03/notice-on-the-continuation-of-the-national-emergency-with-respect-to-ukraine/>.

³Dan Bilefsky, "Can the West Stop Russia From Invading Ukraine?" New York Times (Jan. 10, 2022), <https://www.nytimes.com/2022/01/10/world/russia-ukraine-nato-europe.html>.

14. In December 2021, U.S. Undersecretary of State for Political Affairs Victoria Nuland appeared before the United States Senate and reported, “Over the past six weeks, Russia has stepped up planning for potential further military action in Ukraine, positioning close to 100 thousand troops around Ukraine’s Eastern, and Northern borders as well as from the South via the Crimean Peninsula. Russia’s plans and positioning of assets also include the means to destabilize Ukraine from within, and aggressive information operations in an attempt to undermine Ukrainian stability and social cohesion, and to pin blame for any potential escalation on Kyiv and NATO nations.”⁴

15. Ms. Nuland also warned, “Russia’s military and intelligence services are continuing to develop the capability to act decisively in Ukraine when ordered to do so, potentially in early 2022. The intended force, if fully mobilized, would be twice the size of what we saw last spring, including approximately 100 Battalion Tactical Groups (BTGs), or nearly all of Russia’s ready ground forces based West of the Urals.”⁵

16. Later in December, the U.S. Department of State put Ukraine on its “Do Not Travel” list, warning of “reports that Russia is planning for significant military action against Ukraine” and cautioning that “security conditions, particularly along Ukraine’s borders, in Russia-occupied Crimea, and in Russia-controlled eastern Ukraine, are unpredictable and can deteriorate with little notice.”⁶

⁴ Victoria Nuland, “Opening Statement on ‘Update on U.S.-Russia Policy’ U.S. Senate Committee on Foreign Relations” (Dec. 7, 2021), https://www.foreign.senate.gov/imo/media/doc/120721_Nuland_Testimony1.pdf.

⁵ Victoria Nuland, “Opening Statement on ‘Update on U.S.-Russia Policy’ U.S. Senate Committee on Foreign Relations” (Dec. 7, 2021), https://www.foreign.senate.gov/imo/media/doc/120721_Nuland_Testimony1.pdf.

⁶ “Ukraine Travel Advisory,” U.S. Department of State (Dec. 20, 2021), <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/ukraine-travel-advisory.html>.

17. In January 2022, the United States “disclosed intelligence showing that Russia has a war plan envisioning an invasion force of 175,000 troops.”⁷ Ukraine was subjected to a massive cyber-attack, which the United States recognized as a “tried and true part of the Russian playbook” consistent with past Russian efforts “to destabilise governments, to test their own capabilities, to undercut the sense of confidence of governments that they have gripes with.”⁸

18. On January 12, the U.S. Embassy in Kyiv issued a security alert advising of “increased threats from Russia,” noted “[c]oncerning reports of further unusual Russian military activity near Ukraine’s borders and in occupied Crimea,” and warned that “the security conditions may change with little or no notice.”⁹

19. I agree with the statements made in Ukraine’s legal submissions, relayed to me by the Ministry of Justice of Ukraine, that Tatneft’s discovery requests are far broader and far more intrusive than necessary to collect on a circa \$170 million judgment. They appear to be a mere pretext to obtain disclosure of information of great importance to Ukrainian national security. They appear to be driven by a more far-reaching interstate agenda at times of geopolitical tensions rising to the level of military hostilities.

20. The concerns I have raised about harms to the national security of Ukraine are made in good faith based on my understanding of the relevant facts.

21. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 3 February 2022.

⁷Dan Bilefsky, “Can the West Stop Russia From Invading Ukraine?” New York Times (Jan. 10, 2022), <https://www.nytimes.com/2022/01/10/world/russia-ukraine-nato-europe.html>.

⁸James Politi, “Ukraine cyber attack ‘part of Russian playbook’, says top US diplomat,” Financial Times (January 14, 2022), <https://www.ft.com/content/2662c91f-bcd4-4aae-a386-268611cce6eb>.

⁹“Security Alert,” U.S. Embassy Kyiv, Ukraine (Jan. 12, 2022), <https://ua.usembassy.gov/security-alert-u-s-embassy-kyiv-ukraine-5/>.



Oksana MARKAROVA

NSA, Partners Release Cybersecurity Advisory on Brute Force Global Cyber Campaign

/ Published July 1, 2021
FORT MEADE, Md.,

The National Security Agency (NSA), Cybersecurity and Infrastructure Security Agency (CISA), Federal Bureau of Investigation (FBI) and the UK's National Cyber Security Centre (NCSC) released a [Cybersecurity Advisory](#) today exposing malicious cyber activities by Russian military

intelligence against U.S. and global organizations, starting from mid-2019 and likely ongoing. This advisory is being released as part of NSA's routine and continuing cybersecurity mission to warn network defenders of nation state threats.

[“Russian GRU Conducting Global Brute Force Campaign to Compromise Enterprise and Cloud Environments”](#) details how the Russian General Staff Main Intelligence Directorate (GRU) 85th Main Special Service Center (GTsSS) has targeted hundreds of U.S. and foreign organizations using brute force access to penetrate government and private sector victim networks. The advisory reveals the tactics, techniques, and procedures (TTPs) GTsSS actors used in their campaign to exploit targeted networks, access credentials, move laterally, and collect and exfiltrate data. It also arms system administrators with the mitigations needed to counter this threat.

Malicious cyber actors use brute force techniques to discover valid credentials often through extensive login attempts, sometimes with previously leaked usernames and passwords or by guessing with variations of the most common passwords. While the brute force technique is not new, the GTsSS uniquely leveraged software containers to easily scale its brute force attempts.



Brute Force Global Cyber Campaign

Brute Force Global Cyber Campaign.

Once valid credentials were discovered, the GTsSS combined them with various publicly known vulnerabilities to gain further access into victim networks. This, along with various techniques also detailed in the advisory, allowed the actors to evade defenses and collect and exfiltrate various information in the networks, including mailboxes.

The advisory warns system administrators that exploitation is almost certainly ongoing. Targets have been global, but primarily focused on the United States and Europe. Targets include government and military, defense contractors, energy companies, higher education, logistics companies, law firms, media companies, political consultants or political parties, and think tanks.

NSA encourages Department of Defense (DoD), National Security Systems (NSS), and Defense Industrial Base (DIB) system administrators to immediately review the indicators of compromise (IOCs) included in the advisory and to apply the recommended mitigations. The most effective mitigation is the use of multi-factor authentication, which is not guessable during brute force access attempts. Read the advisory for a complete list of IOCs and mitigations.

Visit [NSA.gov/What-We-Do/Cybersecurity/Advisories-Technical-Guidance/](https://www.nsa.gov/What-We-Do/Cybersecurity/Advisories-Technical-Guidance/) to read more.

BRIEFING ROOM

Notice on the Continuation of the National Emergency with Respect to Ukraine

MARCH 03, 2021 • PRESIDENTIAL ACTIONS

NOTICE

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO UKRAINE

On March 6, 2014, by Executive Order 13660, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of persons that undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On March 16, 2014, the President issued Executive Order 13661, which expanded the scope of the national emergency declared in Executive Order 13660, and found that the actions and policies of the Government of the Russian Federation with respect to Ukraine undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On March 20, 2014, the President issued Executive Order 13662, which further expanded the scope of the national emergency declared in Executive Order 13660, as expanded in scope in Executive Order 13661, and found that the actions and policies of the Government of the Russian Federation, including its purported annexation of Crimea and its use of force in Ukraine, continue to undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On December 19, 2014, the President issued Executive Order 13685, to take additional steps to address the Russian occupation of the Crimea region of Ukraine.

On September 20, 2018, the President issued Executive Order 13849, to take additional steps to implement certain statutory sanctions with respect to the Russian Federation.

The actions and policies addressed in these Executive Orders continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on March 6, 2014, and the measures adopted on that date, on March 16, 2014, on March 20, 2014, on December 19, 2014, and on September 20, 2018, to deal with that emergency, must continue in effect beyond March 6, 2021. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13660.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,
March 2, 2021.

Can the West Stop Russia From Invading Ukraine?

The United States, its NATO allies and Russia meet this week in a whirlwind of diplomacy aimed at averting the largest military action in Europe since World War II. Here's a guide to what's at stake.



By Dan Bilefsky

Published Jan. 10, 2022 Updated Jan. 18, 2022

It feels like a scene from the Cold War.

An unpredictable Russian president amassing thousands of troops on the border of a neighboring country, Ukraine. The threat of invasion. A possible bloody conflagration between East and West.

But what may seem like a perilous episode from a bygone era are front and center this week in global diplomacy, as the United States, its NATO allies and Russia meet for various talks in Geneva, Vienna and Brussels aimed at averting another Russian incursion into Ukraine.

That potential military flare-up threatens to destabilize the already volatile post-Soviet region, buffeted by last week's popular revolt in Kazakhstan. It would also have serious consequences for the security structure that has governed Europe since the collapse of the Soviet Union three decades ago.

In a move that has aggravated already tense relations between Washington and the Kremlin, Russia has mobilized more than 100,000 troops near its border with Ukraine. The United States has disclosed intelligence showing that Russia has a war plan envisioning an invasion force of 175,000 troops that Ukraine's military, despite U.S.-provided equipment and training, would have little ability to stop.

Russia has made a list of far-reaching demands, including that NATO pledge to halt further eastward expansion and agree not to admit Ukraine and that it pull back its troops from NATO members bordering Russia.

But on Monday the United States pushed back on Russia's main demands, saying they were non-starters. Russian officials insisted that they had no plans to invade Ukraine and that the massive troop buildup is just for exercises.

"We will not allow anyone to slam closed NATO's open door policy," Wendy Sherman, the lead American diplomat, told reporters.

Essentially, Mr. Putin is seeking to redraw the post-Cold War boundaries of Europe, establishing a broad, Russian-dominated security zone and drawing Ukraine back into Moscow's orbit by force, if necessary.

In the event of an invasion, the United States and its allies have threatened to impose a series of sanctions that would go far beyond those imposed in 2014, after the Russian annexation of Crimea. Mr. Putin warned that imposing new sanctions could lead to a "complete rupture" in relations with Washington.

What's behind the Ukraine crisis?



Ukrainian soldiers preparing an underground bunker in Hranitne, Ukraine, in November. Conflict with Russia in eastern Ukraine has continued despite a cease-fire in 2015. Brendan Hoffman for The New York Times

Tensions between Ukraine and Russia have been simmering since 2014. That's when Ukraine ousted its pro-Russian president and the Russian military crossed into Ukrainian territory, annexing Crimea and fomenting a rebellion by separatists in eastern Ukraine. A tenuous cease-fire was reached in 2015, but peace has been elusive amid a grinding war that has killed more than 13,000 soldiers and civilians.

The Kremlin's position toward its neighbor has been hardening, as President Vladimir V. Putin of Russia has grown more insistent that Ukraine is fundamentally a part of Russia, culturally and historically. Concerns were raised in late October, when Ukraine used an armed drone to attack a howitzer operated by Russian-backed separatists in eastern Ukraine. Russia called the strike a destabilizing act that violated the cease-fire agreement.

What does Mr. Putin want?



Mr. Putin at his annual news conference in Moscow, on Dec. 23. He has increasingly portrayed NATO's eastward expansion as an existential threat to his country. Alexander Zemlianichenko/Associated Press

Now 69 years old and edging toward the twilight of his political career, Mr. Putin is determined to burnish his legacy and to correct what he has long viewed as a catastrophe of the 20th century: the disintegration of the former Soviet Union.

Asserting Moscow's power over Ukraine, a country of 44 million people that was previously part of the Soviet bloc and shares a 1,200-mile border with Russia, is part of his aim of restoring what he views as Russia's rightful place among the world's great powers, along with the United States and China.

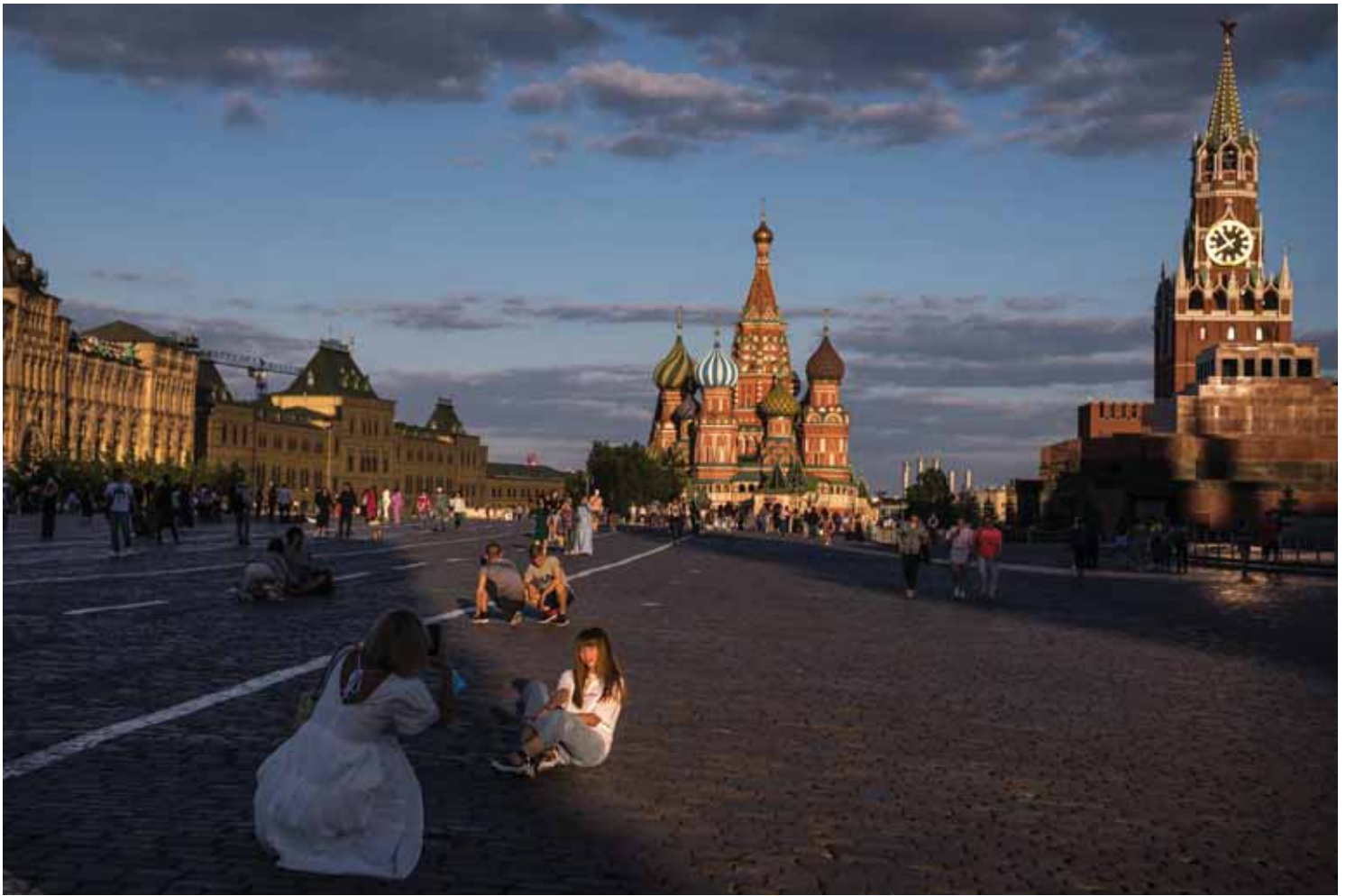
Mr. Putin has increasingly portrayed NATO's eastward expansion as an existential threat to his country, and insists that Moscow's military buildup is a reaction to Ukraine's intensifying ties with the alliance. He appears intent on winding back the clock 30 years, to just before the collapse of the Soviet Union.

The timing of Russia's troop mobilization is perhaps no coincidence. Mr. Putin is seeking to energize nationalist support at home amid a raging pandemic and a stumbling economy. Last year, opposition groups held some of the largest anti-Putin protests in years.

But while some analysts have portrayed Mr. Putin as a wily chess player adroitly manipulating the West, his latest gambit could backfire. NATO could reinforce its military presence in member countries bordering Russia, like the Baltics. And an invasion would invite punishing sanctions that could diminish his support in a country weary of foreign adventures.

In Ukraine, meanwhile, Moscow's aggressive posture has further inflamed nationalist passions, with citizen militias preparing for a drawn-out guerrilla campaign in the event of a Russian occupation. And if Mr. Putin's aim is to reassert Russia's sphere of influence, invading Ukraine would further destabilize the post-Soviet region, where Russian troops are helping restore order in Kazakhstan and Belarus is still smoldering after an uprising in 2020.

How does the United States plan to respond?



Russia's Red Square in Moscow last year. Mr. Putin is seeking to energize nationalist support at home amid a raging pandemic. Sergey Ponomarev for The New York Times

In early December, President Biden made clear that his administration was not considering sending troops to Ukraine, since, among other reasons, Ukraine is not a member of the NATO alliance and does not come under its commitment to collective defense.

Understand the Escalating Tensions Over Ukraine

A brewing conflict. Antagonism between Ukraine and Russia has been simmering since 2014, when the Russian military crossed into Ukrainian territory, annexing Crimea and whipping up a rebellion in the east. A tenuous cease-fire was reached in 2015, but peace has been elusive.

Instead, Mr. Biden said he would reinforce the American military presence in NATO countries that border Russia. And, referring to Mr. Putin, he promised that there would be “economic consequences like none he’s ever seen.” U.S. officials have hinted that Washington could be turning to its China playbook — potentially instituting sanctions that could deprive Russians of their beloved next-generation phones, laptops and other gadgets, and the military from advanced equipment. There is also the option of cutting Russia off from the international banking system, though analysts have said that is unlikely.

An intensifying conflict in Ukraine would test the resolve of the Biden administration as the United States has been working to restore confidence in America’s global leadership following the recent messy withdrawal from Afghanistan and its retrenchment from foreign engagements under President Donald J. Trump.

How the United States handles Russia and Ukraine will affect its ongoing efforts at rebuilding frayed ties with NATO allies after the Trump presidency, during which Mr. Trump declared the alliance “obsolete,” called member countries deadbeats and at first refused to explicitly endorse NATO’s bedrock mutual defense principle.

An escalating crisis in Ukraine also threatens to upend recent efforts by the United States and NATO to shift the alliance's attention to the security challenge posed by China, and would push it back toward its traditional role of protecting Europe and, by extension, North America.

NATO's response in the face of Russia's attempt to neutralize the alliance will also help shape its geopolitical heft for years to come.

What's at stake for Europe?



Chancellor Olaf Scholz of Germany leaving Parliament in Berlin after lawmakers voted to approve him as chancellor last month. His predecessor, Angela Merkel, was a key interlocutor with Mr. Putin. Christian Mang/Reuters

At stake for Europe is whether it can allow Mr. Putin to upend the security structure that has helped keep the peace on the continent since World War II. The conflict has also laid bare the weakness of the European Union and its failure as a foreign policy force in international relations.

The European Union doesn't have a seat at the table at most of these talks, which are about European security, and it is seeking to be more involved.

With the departure of Chancellor Angela Merkel, who grew up in the east, speaks fluent Russian, and had developed a good working relationship with Mr. Putin, Europe lost an invaluable interlocutor with Moscow. Her successor, Chancellor Olaf Scholz, is less of a known quantity in foreign affairs, and is the head of a complicated coalition more critical of Russia than his own Social Democratic Party.

Europe has important trade ties with Russia, and would stand to lose far more than the U.S. from sanctions imposed after a Russian invasion of Ukraine. It is also dependent on Russian gas supplies, a weakness that Mr. Putin has exploited in past disputes.

Steven Erlanger in Brussels contributed reporting.

Dan Bilefsky is a Canada correspondent for The New York Times, based in Montreal. He was previously based in London, Paris, Prague and New York. He is author of the book "The Last Job," about a gang of aging English thieves called "The Bad Grandpas." @DanBilefsky

A version of this article appears in print on , Section A, Page 8 of the New York edition with the headline: Can the West Stop an Invasion by Russia Into Ukraine?

**Under Secretary of State for Political Affairs Victoria Nuland
Opening Statement
on “Update on U.S.- Russia Policy”
U.S. Senate
Committee on Foreign Relations
Washington, D.C.
December 7, 2021**

Chairman Menendez, Ranking Member Risch, Members of the Committee, thank you for the opportunity to appear before you today to discuss our shared concern about the build-up of Russian forces on Ukraine’s borders and in occupied Crimea.

First, let me review what we are seeing: Over the past six weeks, Russia has stepped up planning for potential further military action in Ukraine, positioning close to 100 thousand troops around Ukraine’s Eastern, and Northern borders as well as from the South via the Crimean Peninsula. Russia’s plans and positioning of assets also include the means to destabilize Ukraine from within, and aggressive information operations in an attempt to undermine Ukrainian stability and social cohesion, and to pin blame for any potential escalation on Kyiv and NATO nations.

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- 2 -

Russia's military and intelligence services are continuing to develop the capability to act decisively in Ukraine when ordered to do so, potentially in early 2022. The intended force, if fully mobilized, would be twice the size of what we saw last spring, including approximately 100 Battalion Tactical Groups (BTGs), or nearly all of Russia's ready ground forces based West of the Urals.

We don't know whether Russian President Putin has made a decision to attack Ukraine or overthrow its government but we do know he is building the capacity to do so. Much of this comes right out of Putin's 2014 playbook but this time, it is on a much larger and more lethal scale. So despite our uncertainty about exact intentions and timing, we must prepare for all contingencies, even as we push Russia to reverse course.

Now to what we are doing: First, we are engaging Russia at all levels to urge Moscow to pull back, and settle any concerns with Ukraine or with the Trans-Atlantic community through diplomacy. The President sent CIA Director Burns to Moscow with that message in early November; Secretary Blinken engaged FM Lavrov last Thursday; NSA

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- 3 -

Sullivan and I have been active with Russian counterparts, and [today] President Biden gave that message directly to President Putin.

We are also warning of severe costs and consequences, including deploying far harsher economic measures than we have used before, if Russia chooses the path of confrontation and military action.

Second, we are engaging intensively with President Zelenskyy and the Ukrainian government to strengthen their defenses, support their preparedness, and help them fight disinformation, while also urging national unity and vigilance in the face of Russian efforts to divide or provoke them. The United States' commitment to Ukraine's sovereignty, territorial integrity and independence is unwavering.

Third, during Secretary Blinken's meetings at NATO and the OSCE last week and in countless bilateral meetings at all levels, we are working with Allies and partners to send a united message: Russia must deescalate, pull back its forces and return to negotiations. But if Russia attacks Ukraine, we will be united in imposing severe consequences on Moscow for its actions, including high-impact economic measures we

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- 4 -

have refrained from using in the past. At NATO, SACEUR and national military authorities are also preparing advice on necessary steps to improve resilience and harden defenses in Allied territory.

None of us seeks a confrontation or a crisis. Diplomacy remains the best route to settle the conflict in the Donbas and address other grievances. The Minsk agreements offer the best basis for negotiations, and the U.S. is prepared to support a revived effort if the parties welcome that.

More broadly, President Biden continues to believe that a more stable and predictable U.S.-Russia relationship is in both our interests. We will continue to have deep disagreements with the Kremlin on human rights, Mr. Navalnyy's treatment, press and NGO freedom, Belarus, cyber threats, election interference, detaining American citizens, embassy staffing and many other things. President Biden has and will continue to raise all these issues with President Putin.

And yet, when the United States and Russia work together, as we do now on Iran and in the nascent strategic stability talks, we offer our

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- 5 -

citizens and people everywhere the prospect of a safer future. But what we could and should do together will be put at risk if President Putin chooses more aggression against Ukraine.

While I have you captive, I want to thank this committee for moving so many of our State Department nominees out of committee in recent weeks, and even getting a few confirmed. But with 85 nominees pending consideration before the Senate, American diplomacy remains at quarter power at Main State and around the world. At this time of myriad security challenges, every empty slot diminishes our global influence and creates space for our adversaries to fill. As Christmas and the New Year approach, the Senate could give American diplomacy no greater gift than to get our folks confirmed and off to work. Thank you.

I look forward to your questions.

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Ukraine Travel Advisory

Travel Advisory Ukraine - Level 4: Do
December 20, Not Travel
2021



The Department of State continues to advise U.S. citizens **not to travel to Ukraine due to COVID-19 and to reconsider travel due to increased threats from Russia**. Exercise increased caution due to crime and civil unrest. Some areas have increased risks.

Country Summary:

U.S. citizens should be aware of reports that Russia is planning for significant military action against Ukraine. U.S. citizens are also reminded the security conditions, particularly along Ukraine's borders, in Russia-occupied Crimea, and in Russia-controlled eastern Ukraine, are unpredictable and can deteriorate with little notice.

U.S. citizens choosing to travel to Ukraine should be aware that Russian military action anywhere in Ukraine would severely impact the U.S. Embassy's ability to provide consular services, including assistance to U.S. citizens in departing Ukraine.

Crimea – Do Not Travel

Russia occupies and has attempted to annex Ukraine's Crimea peninsula, and there is extensive Russian Federation military presence in Crimea. Occupation authorities continue to abuse and arbitrarily imprison foreigners and the local population, particularly individuals who are seen as opposing Russia's occupation of the peninsula. The U.S. government prohibits its employees from traveling to Crimea and is unable to provide emergency services to U.S. citizens in Crimea.

Donetsk and Luhansk – Do Not Travel

Russia-led forces control areas of the Donetsk and Luhansk oblasts, where the ongoing armed conflict has resulted in more than 13,000 deaths. Individuals, including U.S. citizens, have been threatened, detained, or kidnapped for hours or days after being stopped at checkpoints controlled by Russia-led

stopped at checkpoints controlled by Russia-led forces. The U.S. government restricts U.S. government employees from traveling to the eastern parts of the Donetsk and Luhansk oblasts and adjacent regions, which limits the ability to provide emergency services to U.S. citizens in these regions.

Crime targeting foreigners and property is common. Demonstrations, which have turned violent at times, regularly occur throughout Ukraine, including in Kyiv. Politically targeted assassinations and bombings have also occurred. There are reports of violent attacks on minority groups and police by radical groups.

COVID – Do Not Travel

Visit the Embassy's [COVID-19 page](#) for more information on COVID-19 and related restrictions and conditions in Ukraine. Read the Department of State's [COVID-19 page](#) before you plan any international travel.

The Centers for Disease Control and Prevention (CDC) has issued a [Level 4 Travel Health Notice for Ukraine](#)[↗], indicating a very high level of COVID-19 in the country. Your risk of contracting COVID-19 and developing severe symptoms is lower if you are fully vaccinated with an [FDA authorized vaccine](#)[↗]. Before planning any international travel, please review the CDC's specific recommendations for [fully vaccinated](#)[↗] and [unvaccinated travelers](#)[↗].

The Federal Aviation Administration (FAA) prohibits U.S. civil aviation from flying in the Dnipro (UKDV) Flight Information Region – Ukraine airspace that covers the cities of Donetsk and Luhansk. For more information, U.S. citizens should consult the [Federal Aviation Administration's Prohibitions, Restrictions and Notices](#)[↗].

If you decide to travel to Ukraine, read the Department's [country information page](#):

- Familiarize yourself with information on [what the U.S. government can and cannot do](#) to assist you in a crisis overseas.
- Have a contingency plan in place that does not rely on U.S. government assistance.

not rely on U.S. government assistance.

Review the [Traveler's Checklist](#).

- Visit our website for [Travel to High-Risk Areas](#).
- Monitor local media for breaking events and adjust your contingency plans based on the new information.
- Ensure travel documents are valid and easily accessible.
- See the [U.S. Embassy's website regarding COVID-19](#).
- Visit the [CDC's website on Travel and COVID-19](#).[↗]
- Get a COVID vaccine to facilitate your travel
- Understand the COVID testing and vaccine requirements for all countries that you will transit through to your destination.
- Enroll in the [Smart Traveler Enrollment Program \(STEP\)](#) to receive Alerts and make it easier to locate you in an emergency.
- Follow the Department of State on [Facebook](#)[↗] and [Twitter](#)[↗].
- Review the [Crime and Safety Report](#) for Ukraine.
- Avoid demonstrations and crowds.

Last Update: Reissued with updates to Increased Threats and the FAA restriction information.

US foreign policy

Ukraine cyber attack 'part of Russian playbook', says top US diplomat

Victoria Nuland points to familiar pattern of actions but stops short of blaming Moscow for hack



Victoria Nuland's comments in an interview with FT came as Washington ramped up warnings that Moscow was setting the stage for possible invasion of its neighbour © AFP via Getty Images

James Politi in Washington JANUARY 15 2022

A senior US official said a large-scale cyber attack against Ukraine on Friday was a "tried and true part of the Russian playbook", as Washington ramped up warnings that Moscow was setting the stage for a possible invasion of its neighbour.

In an interview with the Financial Times, Victoria Nuland, the US under-secretary of state for political affairs, stopped short of blaming Russia for the cyber attack, which targeted dozens of Ukrainian government websites. But she said the episode was part of a familiar and disturbing pattern of actions from Moscow.

"I'm not ready to share anything on attribution at the moment. I would simply say that this is a tried and true part of the Russian playbook, as you know, all around the world," Nuland said.

"In the past, Russian operatives have done this to destabilise governments, to test their own capabilities, to undercut the sense of confidence of governments that they have gripes with. So anything is possible here," she added.

Nuland's comments came on a day in which the White House stepped up its warnings that Russia was preparing for a military offensive in Ukraine. These included a [claim](#) that Moscow was seeking to create a pretext for war by positioning operatives in eastern Ukraine to conduct a "false-flag operation" that would carry out "acts of sabotage against Russia's own proxy forces".

The allegations came [at the end of a week of talks](#) between the US, Nato and Russian officials to defuse the crisis, which were dismissed as "unsuccessful" by Moscow, raising fears that an invasion could now be more likely.

The US has said that if Russia attacked Ukraine, it would face massive retaliation from America and its allies in Europe, including economic and financial sanctions on a far greater scale than during Moscow's 2014 annexation of Crimea.

Biden administration officials have said the US was already ready to roll out those sanctions if needed, and their scope would depend on the nature of Russia's aggression.

"I'm not going to preview 18 different scenarios . . . I would simply say that our commitment and the conversation that we have with our allies is around inflicting very sharp pain very fast, if Russia makes this move in any form," Nuland said.

However she added that from the US perspective, the door to a diplomatic solution was still open, and Washington was working on written responses to Russian officials.

"We want to keep talking," Nuland said. "We believe that it needs to be done on the basis of reciprocity — namely, they're going to have grievances but we have concerns, too."

The US has so far offered to discuss arms control and limits on military exercises in the region but rebuffed Russian requests to pull back troops from certain countries or bar them from joining the Nato alliance.

"We believe that we can de-escalate and we can make some progress on some of these things through diplomacy," Nuland said. "We hope and expect that with some of the ideas that we put on the table, Moscow will stay at the table, but that's Putin's choice."

"All we've done so far is hear each other out," she added. "We haven't begun the kinds of conversations that we would have to have to try to reach agreements, particularly if they want these agreements to have binding force. So we would need more time."

Nuland, who was a senior state department official responsible for Europe during Barack Obama's presidency, sought to brush off concerns that some European countries would resist more aggressive sanctions because of economic and political concerns, saying the talks with allies were "very rich and very full" and the US had "a very good picture of what we can do".

"Remember that this is an aggression in Europe, and this is changing the map of Europe. So you know, none of us wants to ask for our citizens or our companies to make sacrifices, but sometimes national and international security requires that," she said.

Nuland said the US was, however, trying to "understand" European countries' exposures to sanctions, to "build that package that shares the burden as equally as we can and that people are ready to implement". She also suggested that the US and European sanctions measures may not be "identical".

"Sometimes there are things that Europe can do that are harder for us and sometimes it's the other way around," she said.

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U.S. Embassy in Ukraine

Security Alert – U.S. Embassy Kyiv, Ukraine

Security Alert – U.S. Embassy Kyiv, Ukraine (January 12, 2022)

Location: Ukraine

Event: The Department of State continues to advise U.S. citizens to reconsider travel to Ukraine due to increased threats from Russia. Concerning reports of further unusual Russian military activity near Ukraine's borders and in occupied Crimea continue, and U.S. citizens are reminded the security conditions may change with little or no notice. U.S. citizens in Ukraine should be aware that further Russian military action anywhere in Ukraine would severely impact the U.S. Embassy's ability to provide consular services, including assistance to U.S. citizens in departing the country. For more information, please review the latest travel advisory on [Ukraine's country information page](#) and the [information on what the U.S. government can and cannot do to assist you in a crisis overseas](#).

Ensure that your U.S. passport is valid and has at least six months validity. If you are visiting or living in Ukraine, and have not yet enrolled in the [Smart Traveler Enrollment Program \(STEP\)](#), we strongly encourage you to do so. STEP is a free service to allow U.S. citizens and nationals traveling and living abroad to enroll their trip with the nearest U.S. Embassy or Consulate.

Benefits of Enrolling in STEP:

- Receive important information from the Embassy about safety conditions in your destination country, helping you make informed decisions about your travel plans.
- Help the U.S. Embassy contact you in an emergency, whether natural disaster, civil unrest, or family emergency.
- Help family and friends get in touch with you in an emergency.

Stay informed, stay connected, stay safe!

Actions to take:

- Visit the [Embassy's webpage](#) to view the most recent safety and security alerts for U.S. citizens.
- Regularly monitor local and international news and social media news channels.
- Ensure travel documents are valid and easily accessible.

- Review your personal security plans.
- Familiarize yourself with information on what the U.S. government can and cannot do to assist you in a crisis overseas.
- U.S. citizens who travel abroad should always have a contingency plan in place that does not rely on U.S. government assistance.
- Get the COVID vaccine to facilitate your travel.
- Enroll in the Department of State's Smart Traveler Enrollment Program (STEP). STEP enrollment gives you the latest security updates and makes it easier for the U.S. Embassy to contact you in an emergency. If you do not have Internet access, enroll directly with the nearest U.S. embassy or consulate.

The U.S. Embassy in Kyiv is located at 4 A.I. Sikorsky St., Kyiv, Ukraine and is open Monday–Friday, 8:00 a.m. – 5:00 p.m. Regular services are provided only by appointment. Adults can now also renew their passports by mail.

For Assistance:

- U.S. Embassy Kyiv, Ukraine
Tel (380-44) 521 – 5000
KyivACS@state.gov
<https://ua.usembassy.gov>
- State Department – Consular Affairs
888-407-4747 or 202-501-4444
- Ukraine Country Information
- Follow us on Facebook and Twitter

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